IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3583 of 2007()

CC.708/2000 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED

K.S.REMADEVI, W/O. CHANDRA DUTH,
RAM NIVPAS, KUTHIYATHODU P.O., CHERTHALA,
PIN-688 533.

BY ADV. SMT.C.S.SHEEJA

RESPONDENTS: COMPLAINANT AND STATE

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. M/S. RKD FINANCIAL SERVICE LTD.,
2ND FLOOR, CHANDRIKA BUILDING, M.G.ROAD,
ERNAKULAM, REP. BY P.V.POLACHAN, PIN-682 032.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3583 of 2007

Dated this the 29th day of November, 2007

O R D E R

Petitioner, a woman, faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken as early as in 2000. The petitioner had entered appearance earlier. Consequent to her non appearance on 23.11.07, rejecting her application to condone her absence, the learned Magistrate has issued a non bailable warrant against the petitioner. The petitioner finds such warrant chasing her now. The case now stands posted to 17.12.07.

2. According to the petitioner, her absence on 23.11.07 was not wilful or deliberate, but was due to reasons beyond her control. She is willing to surrender before the learned Magistrate and apply for bail. But she apprehends that her application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-